

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2017

(Orders reserved on 28.07.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.No.770 of 2013

Venkatesan ... Petitioner/Complainant

.. Vs ..

R.Velumani ... Respondent/Accused

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., to set aside the order of dismissal passed in C.C.No.158 of 2012 dated 25.03.2013 by the learned Judicial Magistrate, Arakkonam, Vellore District.

For Petitioner : Mr.K.G.Senthil Kumar
For Respondent : No Appearance

ORDER

The complainant has preferred this Criminal Revision Case under Sections 397 r/w. 401 of Cr.P.C., seeking to set aside the order of

dismissal passed by the learned Judicial Magistrate, Arakkonam, Vellore District, in C.C.No.158 of 2012 on 25.03.2013.

2. The private complaint filed by the complainant for dishonour of cheque has been dismissed under Section 204 of Cr.P.C.

3. The case of the complainant is that on 01.09.2010, the respondent herein/accused has borrowed a sum of Rs.11,25,000/- from him promising to repay the same within a month. But on several oral demands, the accused has been avoiding to pay the above said amount. Finally on 16.12.2010, the accused had issued six cheques for the total amount of Rs.11,25,000/- in favour of the complainant and when the said cheques were presented for collection, two cheques were returned for the reason "funds insufficient". Hence, the complainant has preferred the private complaint against the respondent before the learned Judicial Magistrate, Arakkonam, Vellore District, for the offence under Section 138 r/w. 142 of the Negotiable Instruments Act and Section 357 (iii) of Cr.P.C. for dishonour of two cheques for a sum of Rs.7,25,000/-.

4. Learned counsel appearing for the petitioner/complainant submitted that the trial Court, without adducing any reason, simply dismissed the complaint stating that the case is pending for long time for filing process, but neither the complainant's counsel nor the complainant filed process to issue bailable warrant. It is further submitted by the learned counsel for the petitioner that only 2 to 3 chances were given to the petitioner for taking steps and hence, he seeks to set aside the order of dismissal passed by the learned Judicial Magistrate, Arakkonam, Vellore District, in C.C.No.158 of 2012.

5. Though notice was served on the respondent and his name is also printed in the cause list, he has not chosen to appear either in person or through counsel.

6. This Court has considered the submissions made by the learned counsel appearing for the petitioner/complainant and perused the order passed by the learned Magistrate.

7. On a perusal of order passed by the learned Magistrate, it is seen that the complaint was taken on file as C.C.No.158 of 2012 and it

was adjourned from time to time for non-appearance of the complainant and his counsel and for failure to pay the process, the complaint was dismissed under Section 204 of Cr.P.C. In the interest of justice, the order passed by the learned Magistrate is liable to be set aside.

8. In the result, this Criminal Revision Case is allowed and the order of dismissal passed by the learned Judicial Magistrate, Arakkonam, Vellore District, in C.C.No.158 of 2012 dated 25.03.2013 is set aside. The learned Judicial Magistrate, Arakkonam, Vellore District, is directed to restore the case in C.C.No.158 of 2012 on its file and dispose the same in accordance with law.

सत्यमेव जयते

17.08.2017

Index : Yes / No

Internet : Yes

Jrl

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To

The Judicial Magistrate,
Arakkonam,
Vellore District.



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RMT.TEEKAA RAMAN, J.

Jrl



Order in
Crl.R.C.No.770 of 2013

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